IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 9341 of 2004

Between:

M. Sreedhar Reddy, S/o. Dr. M. Harischandra Reddy,
Nellore

..... PETITIONER

AND

1 Government of A.P. Department of Medical and Health Secretariat,
Hyderabad. rep by its Secretary
2 A.P. State Dental Council

C/o. Government Dental College and Hospital
Hyderabad, rep by its Registrar

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ of Mandamus or any other appropriate writ or direction declaring the action of the 1st respondent in not passing any orders on the stay petition filed along with the appeal dated 17-05-2004 as illegal and arbitrary and consequently stay the order of the 2nd respondent passed in reference No.69/APSDC/2003 dated 19-4-2004 pending disposal of the appeal before the 1st respondent.

Counsel for the Petitioner:MR.O.MANOHER REDDY

Counsel for the Respondent Nos.1 and 2: GP FOR MEDICAL HEALTH & FAMI.WELFARE

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.9341 OF 2004

ORDER:

Though interlocutory matters are listed, with the consent of the learned counsel for the parties the Writ Petition itself is heard and is being finally disposed of.

The petitioner is a Dentist. He was registered with A.P.Dental Council. It appears, second respondent issued a show cause notice to the petitioner calling upon him to show cause as to why action should not be taken against him as per Section 41 of the Dentist Act, 1976 (for short, the Act) for releasing advertisement in newspapers in violation of Regulation 6 of the Code of Ethics and Regulations for Dentists. The petitioner submitted explanation and also appeared before second respondent. After considering the explanation and hearing the petitioner A.P.Dental Council passed resolution imposing a fine of Rs.1,000/- for violating the Code of Ethics and Regulations. Aggrieved by the same, petitioner filed appeal before first respondent under sub-section (4) of Section 41 of the Act. As no interim orders are passed in the stay application, apprehending that second respondent might enforce its order, present Writ Petition is filed.

This Court while admitting the Writ Petition passed orders of interim stay on 25.5.2004. In the counter affidavit filed by Additional Secretary to Government on

behalf of first respondent it is stated that appeal is still pending. It is also alleged that petitioner filed appeal on 17.5.2004 and within a week he filed present Writ Petition on 24.5.2004. Learned Assistant Government Pleader for Medical and Health therefore submits that petitioner cannot be permitted to pursue two remedies simultaneously.

As held by the Supreme Court in CARL STILL G.M.B.H. v. STATE OF BIHAR and BOMBAY METROPOLITAN REGION DEVELOPMENT AUTHORITY, BOMBAY v. GOKAK PATEL VOLKART LTD. a person cannot be permitted to avail remedy under Article 226 of the Constitution of India simultaneously along with departmental remedy. The Writ Petition is therefore liable to be dismissed. As the appeal is pending since 2004 first respondent is directed to dispose of the appeal expeditiously within a period of four weeks from the date of receipt of a copy of this order.

The Writ Petition with the above direction is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

15.7.2005

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To

1 The Secretary to Government of Andhra Pradesh,

Department of Medical and Health, Secretariat,
Hyderabad.

2 The Registrar,

A.P. State Dental Council

C/o. Government Dental College and Hospital
Hyderabad, rep by its Registrar

3 2 CCs to G.P. for Medical and Health, High Court Bldgs.,

Hyderabad (OUT)

4 2 CD copies